

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

MARSHALL DIVISION

MICHAEL S. BAUGHMAN, #1871886	§	
VS.	§	CIVIL ACTION NO. 2:19cv383
TINA RICHARDSON, ET AL.	§	

ORDER OF DISMISSAL

Petitioner Michael Baughman, a prisoner confined at the Darrington Unit within the Texas Department of Criminal Justice (TDCJ), proceeding *pro se*, filed this habeas corpus action pursuant to 28 U.S.C. § 2254—challenging a criminal conviction from Cass County, Texas. The case was referred to United States Magistrate Judge Roy S. Payne for findings of fact, conclusions of law, and recommendations for the disposition of the case.

The Magistrate Judge issued a Report, (Dkt. #13), recommending that Petitioner's habeas petition be dismissed without prejudice, for Petitioner's failure to comply with an order of the Court. This Report was sent to Petitioner at his address, with an acknowledgment card. The docket reflects that Petitioner received the Report, (Dkt. #14). To date, however, no objections have been filed—and the time period for filing objections has long expired.

Because objections to Judge Payne's Report have not been filed, Petitioner is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass*, 79 F.3d at 1430.


The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that that the Report of the United States Magistrate Judge (Dkt. #13) is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Petitioner's habeas petition is **DISMISSED** without prejudice for the failure to comply with an order of the Court. Petitioner is **DENIED** a certificate of appealability *sua sponte*, which refers only to this case and not does not prevent refiling. Finally, it is

ORDERED that any and all motions which may be pending in this case are hereby **DENIED** as **MOOT**.

So ORDERED and SIGNED this 18th day of January, 2022.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE